

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

OMAR RODULFO TOUCHE,

Defendant.

No. 11-CR-123-LRR

ORDER

The matter before the court is United States Magistrate Judge Jon S. Scoles's Report and Recommendation (docket no. 44). On April 3, 2012, Judge Scoles held a hearing on the Petition for Warrant or Summons for Offender Under Supervision (docket no. 28). On April 4, 2012, Judge Scoles issued the Report and Recommendation, which recommends that the court continue Defendant's supervised release on the same terms and conditions previously imposed. The Report and Recommendation states that, "within fourteen (14) days after being served with a copy of this Report and Recommendation, any party may serve and file written objections with the district court." Report and Recommendation at 5.

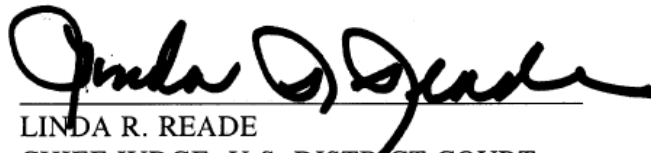
The time to object to the Report and Recommendation has expired and neither party has filed any objections. The parties have thus waived their right to de novo review of the Report and Recommendation. *See United States v. Azure*, 539 F.3d 904, 909 (8th Cir. 2008) ("[U]pon an objection to a magistrate judge's proposed findings and recommendations pursuant to [18 U.S.C. §] 3401(i), a district court must undertake de novo review."); *see also United States v. Newton*, 259 F.3d 964, 966 (8th Cir. 2001) ("Appellant's failure to file any objections waived his right to de novo review by the district court of any portion of the report and recommendation of the magistrate judge as well as his right to appeal from the findings of fact contained therein." (quoting *Griffini*

v. Mitchell, 31 F.3d 690, 692 (8th Cir. 1994))). The court finds no plain error in Judge Scoles's decision. Accordingly, the court hereby **ADOPTS** the Report and Recommendation (docket no. 44) in its entirety. For the reasons set forth therein, the court finds by a preponderance of the evidence that Defendant violated the terms and conditions of his supervised release. The court, however, agrees that, at this time, revocation is not the appropriate disposition. Defendant shall continue to work with his probation officer to find suitable employment and a stable residence. In the event that Defendant fails to continue to comply with the terms of his supervised release, his probation officer is **DIRECTED** to file a new petition.

The Clerk of Court is **DIRECTED** to send a copy of this order to Defendant, the government and the United States Probation Office.

IT IS SO ORDERED.

DATED this 25th day of April, 2012.

A handwritten signature in black ink, appearing to read "Linda R. Reade", written over a horizontal line.

LINDA R. READE
CHIEF JUDGE, U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA